

grounds of rejection to justify a first action final rejection of claims 31, 36-38, and 40 under 35 U.S.C. 112, second paragraph.

The Examiner had those claims from the time of filing of this application and made no rejection in the first office action on merits dated September 3, 2002. However, the Examiner raised the 35 U.S.C. 112 rejections in the second office action for the first time and yet made the action a final rejection. That is in error and should be reversed.

Withdrawal of the finality of the last office action, entry of the amendments proposed in the last Response and re-issuance of a non-final rejection are respectfully requested.

Applicant believes no fee should be required. However, a check for the \$130 Petition Fee is attached hereto. Applicant respectfully requests refund of this fee.

Respectfully,



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